

DEPARTMENT OF STATE REVENUE
LETTER OF FINDINGS NUMBER: 03-0259P
Income Tax
For the Years 1997-2001

NOTICE: Under IC 4-22-7-7, this document is required to be published in the Indiana Register and is effective on its date of publication. It shall remain in effect until the date it is superseded or deleted by the publication of a new document in the Indiana Register. The publication of this document will provide the general public with information about the Department's official position concerning a specific issue.

ISSUE

I. Tax Administration- Penalty

Authority: IC 6-8.1-10-2.1(g).

The taxpayer protests the imposition of penalty.

STATEMENT OF FACTS

The taxpayer is primarily engaged in the sale, installation, and repair of lubrication equipment. After an audit, the Indiana Department of Revenue, hereinafter referred to as the "department," assessed additional sales and use tax, interest, and penalty. The taxpayer protested the imposition of the penalty. Although given ample opportunity to do so, the taxpayer did not request a hearing or submit additional documentation. Therefore, this Letter of Findings is based upon the information in the file.

I. Tax Administration- Penalty

DISCUSSION

The taxpayer protests the imposition of a two hundred fifty dollar (\$250) penalty pursuant to IC 6-8.1-10-2.1(g) as follows:

A person who fails to file a return for a listed tax that shows no tax liability for a taxable year, other than an information return (as defined in section 6 of this chapter), on or before the due date of the return shall pay a penalty of ten dollars (\$10) for each day that the return is past due, up to a maximum of two hundred fifty dollars (\$250.)

The taxpayer contends that the imposition of the penalty is inappropriate because it did not know that it was required to file returns for the years in question. The statute, however, requires the imposition of the penalty if returns are not filed properly. There is no statutory basis given to waive the penalty. Therefore, since the taxpayer did not file the required returns, the penalty properly applies.

FINDING

The taxpayer's protest is denied.